

REMARKS

The Office Action in the above-identified application has been carefully considered and this amendment has been presented to place this application in condition for allowance.

Accordingly, reexamination and reconsideration of this application are respectfully requested.

Claims 12-17 are in the present application. It is submitted that these claims were patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The new claims, as presented herein, are not submitted for the purpose of patentability within the meaning of 35 U.S.C. sections 101, 102, 103 or 112. Rather, these claims are submitted simply for clarification and to round out the scope of protection to which Applicant is entitled. Claims 1, 2, 4-8 and 10 are canceled.

Claims 1, 2, 4, 6-8, and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Smolen (U.S. Patent 5,915,243) in view of Von Kohorn (U.S. Patent 5,227,874) and Iwafune et al. (U.S. Patent 5,880,720). Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Smolen in view of Von Kohorn and Iwafune in further view of Goldhaber et al. (U.S. Patent 5,855,008) and Gammie et al. (U.S. Patent 5,270,809). However, for at least the following reasons, the present invention is distinguishable over any combination of these cited references.

Claims 1, 2, 4-8 and 10 are canceled and new claims 12-17 are presented. These new claims correspond more closely with the flowchart shown in Figure 2.

The present invention is directed to a method for ensuring that viewers actually view commercial programs in their entirety. In exchange for viewing the commercial programs, the

viewer receives points which can be used to pay for pay programs. Specifically, the present claims require “determining whether said program is a commercial program or a pay program.” (Claims 12 and 15) Although several of the cited references deal with commercial programming, none are directed for use with both commercial and pay programming much less determining between commercial and pay programs as required in the present invention.

Further, the present claims recite “adding points corresponding to the commercial program to a present points value if said viewer response is received.” (Claims 12 and 15) The Examiner contends “Von Kohorn discloses a survey system, which awards a user points/coupons once they have fully completed a survey on a survey device. (column 107, line 29-column 108, line 17)” (Office Action page 3, lines 1-3) Actually at the cited location, Von Kohorn simply discusses “a reward” for completing a survey/questionnaire and to “surrender it to the organizer at a specified location to collect their reward in person or by mail.” Von Kohorn does not discuss adding points corresponding to a commercial program as required in the present claims. In addition, the present claims recite “subtracting points corresponding to the pay program from the present points value stored in said memory if said points payment request is approved by the viewer.” (Claims 12 and 15) In reference to canceled claim 5, the Examiner contends “Goldhaber discloses an attention brokerage system, which provides user’s credits for viewing advertising; these credits are stored in a consumer computer repository (column 9, line 53-column 11, line 45)” (Office Action page 9) Goldhaber actually discloses “assuring that consumers pay for some information content delivered to them and are compensated for paying attention to other information content delivered to them...The consumer may satisfy the request for payment by providing an appropriate amount of digital cash...” (Column 10, lines 5-30)

This generic discussion cannot be used to meet the specifically defined points based system required in the present invention.

The Examiner further contends “Gammie discloses a pay per view system in which credits are downloaded to a set top box and utilized to purchase Pay Per View Programming.” (Office Action page 9) Applicants have been unable to locate where Gammie makes this disclosure and requests the Examiner provide a specific location.

Accordingly, for at least these reasons, any combination of Smolen, Von Kohorn, Iwafune, Goldhaber and Gammie fails to obviate the present invention and the new claims should be allowed.

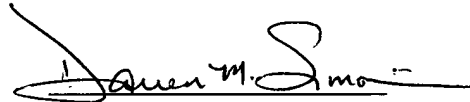
In view of the foregoing amendment and remarks, it is respectfully submitted that the application as now presented is in condition for allowance. Early and favorable reconsideration of the application are respectfully requested.

No additional fees are deemed to be required for the filing of this amendment, but if such are, the Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:

A handwritten signature in black ink, appearing to read "Darren M. Simon", written over a horizontal line.

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